

REMARKS

The Office Action of March 6, 2003 has been reviewed and this is a response to that action.

Claim 1 has been rejected under 35 USC 102(b) as being anticipated by Onderak et al.

However, it is believed that this rejection should not be maintained since the reference does not have every element of claim 1, especially as now amended. The present invention has the cover material on the top and on the bottom surfaces thereof, and provides an integral, one-piece construction. This is not disclosed by Onderak et al.

Claims 1-5 have been rejected under 35 USC 103(a) as being unpatentable over Onderak et al. in view of Juneau.

The shortcomings, as least as to claim 1, have been pointed out above, and claims 2-5, as well as the newly added claims provide additional features not found in Onderak et al. or in Juneau.

With respect to page 3, Section 5 of the Office action, second paragraph, it is not correct that there must be an unexpected result. Decisions by both the Court of Customs and Patent Appeals (CCPA) and the Court of Appeals for the Federal Circuit (Federal Circuit) have clarified this. Under current case law, an unexpected result is only one of the tests of obviousness, but not the only one. *American Hoist & Derrick Co. v. Sowa & Sons, Inc.*, 230 USPQ763, 771 (Fed Cir 1984). "While the existence of a new and unexpected result or function or a so-called 'synergistic' effect may support a holding of nonobviousness ... our predecessor courts have considered and rejected the notion that a new result or function or synergism is a

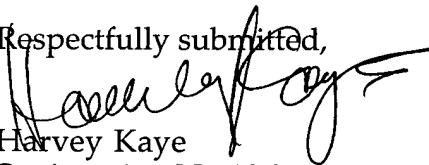
requirement of patentability." The court cited with approval that "A patentable invention ... may result even if the inventor has, in effect, merely combined features, old in the art, for their known purpose, without producing anything beyond the results inherent in their use." *Bowser, Inc. v. United States* 388 F.2d 346, 349-350, 56 USPQ 406, 409 (Ct Cl 1967).

Also, as to claim 2, which recites a 1/4 inch thickness, this is about 6.3 mm which is greater than the Onderak et al. thickness and less than Juneau's thickness, the latter being at least 10 mm. The Onderak et al. preferred thickness is 0.1 inch.

Also, note that Onderak et al. require raised surfaces, whereas the present invention uses only textured surfaces to assist in preventing slippage. Onderak et al. are concerned about spills of liquids and have formed "dams" in their upper layer to handle such liquids and prevent the liquids from traveling to other areas of the airplane floor. Their surface is also provided with structure so that the shoes of people are raised above the level of the liquid.

Therefore, all of the claims define patentably over the cited prior art, and the rejections should be withdrawn and the claims allowed.

A request for an extension of time for one month is attached to this response, so that the filing of this response is timely, since July 6, 2003 was a Sunday.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage prepaid envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 7, 2003.

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